

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 14446US02

PATENT

In the Application of:)	
)	
Jeyhan Karaoguz, et al.)	<u>Electronically Filed On November 19, 2009</u>
)	
Serial No.: 10/672,664)	
)	
Filed: September 26, 2003)	
)	
For: MEDIA EXCHANGE NETWORK)	
SUPPORTING DELIVERY OF MEDIA)	
CONTENT TO AUTHORIZED)	
VEHICLES VIA MEDIA)	
PROCESSING SYSTEM)	
)	
Examiner: Luong, Alan H.)	
)	
Group Art Unit: 2427)	
)	
Confirmation No.: 9798)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets.

Respectfully submitted,

Date: November 19, 2009

By: /Joseph M. Butscher/
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Attorney for Applicants

REMARKS

The present application includes pending claims 1-7, 9-18, 20-34 and 36-61, all of which remain rejected. In particular, claims 1-7, 9-18, 20-24, 31-34, 36-51, and 56-61 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,799,201 (“Lee”) in view of U.S. 2004/0073932 (“Lavelle”). Claims 25-30 and 52-55 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Lavelle and U.S. 2003/0097655 (“Novak”). As explained below, however, the Office Action fails to establish a *prima facie* case of unpatentability with respect to the pending claims.

The Applicants respectfully submit that the proposed combination of Lee and Lavelle does not describe, teach, or suggest “set top box circuitry,” as recited in claim 1, for example. *See* April 20, 2009 Amendment at pages 14-15. Independent claims 14, 25 and 31 recite similar limitations. Instead, Lee discloses a system that “consists of (1) a remotely programmable, microcomputer controlled multimedia device 20 in a vehicle with a wireless IP address for Internet access, (2) an Internet gateway network 30 that provides programming, information and Internet access to the multimedia device 20, and (3) one or more remote programming devices 40.” *See* Lee at column 6, lines 8-14 (emphasis added). “Consists of” is a close-ended phrase.

The Applicants note that reference numeral 30 of Lee, which the Office Action relies on as “set top box circuitry” (*see* August 11, 2009 Office Action at pages 2-3), is an “Internet gateway network” (*see* Lee at column 6, line 11), which does not include set top box circuitry. *See* April 20, 2009 Amendment at page 15.

A television set-top box is different than and includes functionality not found in the internet gateway network of Lee. Indeed, the Microsoft Press Computer Dictionary, 3rd Edition, at page 431 (attached), indicates that a “set-top box” is a “device that converts a cable TV signal to an input signal to the TV set.”

Lee does not describe, teach, or suggest that the “Internet Gateway 30” connects to a television. Lee also does not describe, teach or suggest that the “Internet Gateway 30” connects to a “cable TV network,” or processes “cable TV signals.” Again, the Internet Gateway 30 of Lee is by no means a set-top box, as recited in the claims of the present application.

For at least these reasons, the Applicants respectfully submit that the Office Action fails to demonstrate that the proposed combination describes, teaches, or suggests a set top box, or set top box circuitry, as recited in claims 1, 14, 24, 31 and the claims depending therefrom. Therefore, the Office Action has not established a *prima facie* case of unpatentability with respect to these claims.

Additionally, the Applicants demonstrate that the Office Action does not establish that the proposed combination describes, teaches, or suggests “a **first personal media channel** that facilitates a **user-defined transfer from the set top box circuitry, via the at least one vehicle system, of a video game to one or both of the entertainment system and/or a handheld electronic game system.**” *See* April 20, 2009 Amendment at pages 15-18.

The cited portion of Lee (namely, column 10, lines 16-36) does not describe, teach or suggest a “personal channel” that is operative to download a “video game.” In fact, Lee makes only one reference to “game,” in regard to an “interactive audio game.” *See* Lee at column 7, line 24. Lee notes this as a “new personal information service” on the “multimedia device 20.” An “interactive audio game” that is a “personal information service” is not the same as a “video game.”

Further, Lavelle at [0035] merely discloses a “display device 112” and a “video game player 126.” Lavelle makes no mention of transferring games from outside the vehicle to the “entertainment unit 100.”

Neither Lee, nor Lavelle, describes, teaches, or suggests that video games are downloaded to the entertainment through an external source. *See* April 20, 2009 Amendment at pages 15-16.

The Office Action fails to demonstrate that the cited references describe, teach, or suggest “a **first personal media channel** that facilitates a **user-defined transfer from the set top box circuitry** [which is remote from the vehicle], **via the at least one vehicle system, of a video game to one or both of the entertainment system and/or a handheld electronic game system.**” Thus, the Office Action has failed to establish a *prima facie* case of unpatentability with respect to claims 1, 14, 25, 31 or the claims that depend therefrom.

The Office Action also fails to show that the cited references describe, teach, or suggest “wherein the at least one vehicle system comprises a navigation system, the at least one view comprising a second personal media channel that facilitates a user-defined navigation update to the navigation system,” as recited in claim 40. *See* April 20, 2009 Amendment at pages 16-18. Claims 46, 52 and 58 recite similar limitations. Thus, for at least these reasons, the Office Action does not establish a *prima facie* case of unpatentability with respect to these claims or the claims that depend therefrom.

The Office Action also fails to demonstrate that the cited references describe, teach or suggest “wherein the navigation system collects vehicle route, performance and engine maintenance information with respect to the authorized vehicle and uploads the vehicle route, performance and engine maintenance information to one or both of the set top box circuitry and/or the at least one server,” as recited in claim 41, for example. *See* April 20, 2009 Amendment at pages 17-18. Note, the claim recites that the navigation system collects vehicle route, performance **and** engine maintenance information with respect to the authorized vehicle and updates accordingly. The claim does **not** recite that only one of vehicle route, performance

and engine maintenance information is collected. Yet, the portions of Lee that the Office Action relies on do not address all of these limitations. See August 11, 2009 Office Action at page 12 and Lee at column 12, lines 14-25 and column 14, lines 31-41. Thus, for at least this reason, the Office Action has not established a *prima facie* case of obviousness with respect to claims 41, 47, 53 and 59. The Applicants note that neither Lee nor Lavelle, alone or in combination with one another, describes, teaches or suggests “wherein the navigation system collects vehicle route, performance and engine maintenance information with respect to the authorized vehicle and uploads the vehicle route, performance and engine maintenance information to one or both of the set top box circuitry and/or the at least one server.”

For at least the reasons discussed above, the Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of unpatentability with respect to any of the pending claims.

The Commissioner is authorized to charge any necessary fees, **including the \$540 fee for the Notice of Appeal and the \$130 fee for a 1-month extension**, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: November 19, 2009

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Microsoft Press
**Computer
Dictionary**

Third Edition

Microsoft Press

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lishing, typesetting, imagesetting, and optical scanning of graphics. **2.** An organization that provides data processing services and access to software packages for a fee.

service provider \sər'vəs prə-vī'dər\ *n.* See ISP.

servo \sər'vō\ *n.* The part of a servomechanism, controlled by the servomechanism's feedback circuit, that produces the final mechanical output. *Also called* servomotor. *See also* servomechanism.

servomechanism \sər'vō-mek'ə-niz-əm\ *n.* A control system in which the final output is mechanical movement. A servomechanism uses feedback to control the position, velocity, or acceleration of a mechanical component. *Also called* servo system.

servomotor \sər'vō-mō'tər\ *n.* See servo.

servo system \sər'vō si'stəm\ *n.* See servomechanism.

session \sesh'ən\ *n.* **1.** The time during which a program is running. In most interactive programs, a session is the time during which the program accepts input and processes information. **2.** In communications, the time during which two computers maintain a connection. **3.** A specific protocol layer in the ISO/OSI networking model that manages communication between remote users or processes. *See also* ISO/OSI model, session layer.

session layer \sesh'ən lār, lā'ər\ *n.* The fifth of seven layers in the ISO/OSI networking model. The session layer handles the details that must be agreed on by the two communicating devices. *See also* ISO/OSI model.

set¹ \set\ *n.* In printing and display, a group of related characters, such as a character set. *See also* character set.

set² \set\ *vb.* **1.** To change the value of a bit to 1. **2.** To establish a particular condition, such as setting tab stops, setting a counter to 0, or setting a breakpoint. *See also* breakpoint.

SET protocol \S'E-T' pro-tə-kol\ *n.* See Secure Electronics Transactions protocol.

settling time \set'ə-lēng tīm, set'lēng\ *n.* The time required for a disk drive's read/write head to stabilize over a new location on the disk after being moved.

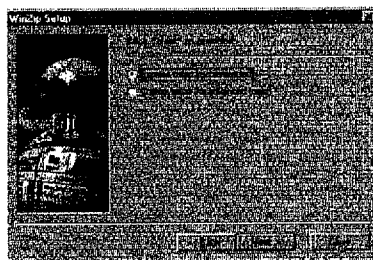
set-top box \set'top boks\ *n.* A device that converts a cable TV signal to an input signal to the TV set. Set-top boxes can be used to access the World Wide Web.

setup \set'up\ *n.* **1.** A computer along with all its devices. **2.** The procedures involved in preparing a software program or application to operate within a computer.

setup program \set'up prō'gram\ *n.* **1.** A built-in BIOS program for reconfiguring system parameters to accommodate a new disk drive. *See also* BIOS. **2.** *See* installation program.

setup string \set'up strēng\ *n.* *See* control code.

setup wizard \set'up wiz'ərd\ *n.* In Microsoft Windows, a structured series of questions and options that leads a user through the process of installing a new program. *See the illustration.*



Setup wizard.

seven-segment display \sev'ən-seg'mənt disp'lā\ *n.* A light-emitting diode (LED) display or liquid crystal display (LCD) that can show any of the 10 decimal digits. The seven segments are the seven bars that form a numeral 8 as in a calculator display.

sex changer \seks' chān'jər\ *n.* *See* gender changer.

.sf.ca.us \dot-S-F dot-C-A dot-U-S'\ *n.* On the Internet, the major geographic domain specifying that an address is located in San Francisco, California, United States.

sfil \S'fil\ *n.* The file type of a Macintosh System 7 sound file.

.sg \dot-S-G'\ *n.* On the Internet, the major geographic domain specifying that an address is located in Singapore.

.sgm \dot-S-G-M'\ *n.* The MS-DOS/Windows 3.x file extension that identifies files encoded in Standard Generalized Markup Language (SGML). Because MS-DOS and Windows 3.x cannot recognize file extensions longer than three letters, the .sgml extension is truncated to three letters in those environments. *See also* SGML.